

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Nikolaos Soukos et al. Art Unit : Unknown
Serial No. : 10/019,837 Examiner : Unknown
Filed : November 9, 2001
Title : PERMEABILIZING BIOFILMS

BOX PCT
Commissioner for Patents
Washington, D.C. 20231

DECLARATION UNDER 37 CFR 1.47(a) AS TO JOINT INVENTOR, SHUN LEE

I, J. Peter Fasse, having firsthand knowledge of the facts below, declare the following with respect to refusal by the joint inventor, Shun Lee, Ph.D., to join in the above-captioned application for patent because he is presently employed by the United States Patent and Trademark Office as a Patent Examiner:

1. I am an attorney with Fish & Richardson P.C., 225 Franklin Street, Boston, MA, United States, 02110. I represent The General Hospital Corporation ("Massachusetts General Hospital"), the assignee of the patent application captioned above ("the application").

2. On December 20, 2001, I mailed a package containing a copy of the application and a cover letter (Exhibit A) to Irina Erenburg, Ph.D. of Massachusetts General Hospital, Office of Corporate Sponsored Research and Licensing. Dr. Erenburg is an Industry Agreement Associate for Massachusetts General Hospital, and all correspondence relating to the application is sent to Dr. Erenburg's attention.

3. On April 12, 2002, I mailed a package containing a Combined Declaration and Power of Attorney and a cover letter to Dr. Lee's last known address. The cover letter asked Dr. Lee to sign the Combined Declaration and Power of Attorney for the application (Exhibit B).

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EL 948095497US

September, 2002
Date of Deposit

4. Dr. Lee has not returned the signed Combined Declaration and Power of Attorney.

5. On April 19, 2002, Dr. Apostolos G. Doukas contacted me by telephone and informed me that Dr. Lee refused to sign the Combined Declaration and Power of Attorney, because Dr. Lee was now a Patent Examiner with the United States Patent and Trademark Office.

6. On August 16, 2002, I contacted Dr. Lee by telephone. Dr. Lee indicated that he would not sign the Combined Declaration and Power of Attorney because he became a Patent Examiner with the United States Patent and Trademark Office in June of 2000. Dr. Lee indicated that he was prohibited from signing the Combined Declaration and Power of Attorney pursuant to 35 U.S.C. § 4. Further, Dr. Lee indicated that he had discussed his obligation not to sign the Combined Declaration and Power of Attorney with his supervisor, Examiner Frank Font. I requested that Dr. Lee review the facts and circumstances with his superior.

7. On August 19, 2002, I again spoke with Dr. Lee and he told me that he had met with his superior, who confirmed the original instructions that Dr. Lee should not sign the Combined Declaration and Power of Attorney.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: September 10, 2002 J. Peter Fasse
J. Peter Fasse

Please direct any correspondence concerning this declaration to:

J. Peter Fasse
Reg. No. 32,983
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
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